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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC.;
OTTOMOTTO LLC; OTTO TRUCKING
LLC,

Defendants.

CASE NO. 3:17-cv-00939-WHA

**[PROPOSED] ORDER GRANTING
PLAINTIFF WAYMO LLC'S MOTION
FOR JURY INSTRUCTION BASED ON
SPOLIATION**

1 Plaintiff Waymo LLC (“Waymo”) has filed a Motion for Jury Instruction Based on Spoliation
2 (the “Motion”).

3 Having considered the Motion, as well as any response thereto, the Court hereby **GRANTS**
4 the Motion in its entirety. **IT IS HEREBY ORDERED** that the jury will be given the following
5 instruction at trial:

- 6 1) Defendants had a duty to preserve relevant evidence, including text message
7 communications, collaboration platforms, and external hard drives and disks;
- 8 2) Despite this obligation, Defendants failed to preserve large volumes of
9 relevant emails and other documents;
- 10 3) Defendants acted in bad faith in failing to preserve the relevant documents;
11 and
- 12 4) the jury should presume that the communications, documents and other files
13 that Defendants failed to preserve would have been favorable to Waymo’s
14 case and unfavorable to Defendants’ case.

15 **IT IS SO ORDERED.**

16 Dated: November 13, 2017

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HON. WILLIAM ALSUP
18 United States District Court Judge
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